

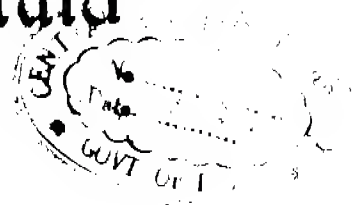


# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY

भाग II—खण्ड 2  
PART II—Section 2  
प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY



सं० 3] नई दिल्ली, मंगलवार, जनवर 6, 1976/पीब 16, 1897  
No. 3] NEW DELHI, TUESDAY, JANUARY 6, 1976/PAUSA 16, 1897

इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 6th January, 1976:—

### I

BILL No. V OF 1976

*A Bill further to amend the Motor Vehicles Act, 1939.*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Motor Vehicles (Amendment) Act, 1976.

Short title  
and com-  
mence-  
ment.

(2) It shall be deemed to have come into force on the 26th day of September, 1975.

4 of 1939.

2. In section 63 of the Motor Vehicles Act, 1939 (hereinafter referred to as the principal Act), after sub-section (10), the following sub-sections shall be inserted, namely:—

Amend-  
ment  
of  
section 63.

'(11) Notwithstanding anything contained in sub-section (1), but, subject to the rules that may be made by the Central Government under sub-section (15), the appropriate authority may, for the purpose of encouraging long distance inter-State road transport, grant to the public carriers in a State such number of national permits as the Central Government may specify in this behalf in relation to that State and the provisions of sections 54, 55, 56, 57, 58, 59, 59A, 60, 61 and 64 shall, as far as may be, apply to or in relation to the grant of national permits:

Provided that the number of national permits specified for a State shall not be varied or modified except after consultation with the concerned State Government.

*Explanation.*—In this section—

(a) “national permit” means a permit granted by the appropriate authority to a public carrier authorising him to operate as a public carrier throughout the territory of India or in such contiguous States, not being less than five in number (including the State in which the permit is issued), as may be specified in such permit in accordance with the choice indicated by the public carrier to whom such permit is granted;

(b) “appropriate authority” in relation to a national permit means the authority which is authorised by this Act to grant a public carrier’s permit.

(12) Without prejudice to the provisions of sub-section (1) of section 55, the appropriate authority shall, in considering an application for a national permit, also have regard to the following matters, namely:—

(a) no national permit shall be issued—

(i) to an individual owner if he already holds in his own name three or more valid national permits, or, when he holds valid national permits as well as valid inter-State region permits, if the aggregate number of such permits is three or more;

(ii) to a company which already holds in its own name seven or more valid national permits, or, when it holds valid national permits as well as valid inter-State region permits, if the aggregate number of such permits is seven or more;

(b) other conditions being equal, preference shall be given to applicants who are ex-army personnel, or who have valid licences for driving transport vehicles.

*Explanation.*—In this sub-section “company” includes a body corporate.

(13) If, as a result of the acquisition of one or more inter-State region permits by an individual owner or a company after one or more national permits have been granted to him or it, the aggregate number of the permits held by such individual or company exceeds, in the case of the individual, three, or, in the case of a company, seven, the appropriate authority shall, notwithstanding anything contained in section 60 cancel such number of national permits as would bring down the aggregate number of national permit and inter-State region permit held by such individual, to three, or, in the case of a company, to seven:

Provided that before cancelling any national permit, the appropriate authority shall give to the individual owner or the company, as the case may be, an option to indicate which of the national permits held by him or it should be so cancelled.

(14) Nothing contained in sub-section (12) and (13) shall apply

to a State Transport Undertaking.

(15) (a) The Central Government may make rules for carrying out the provisions of sub-section (11).

(b) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) the authorisation fee payable for the issue of a national permit;

(ii) the fixation of the laden weight of the motor vehicle;

(iii) the distinguishing particulars or marks to be carried or exhibited in or on the motor vehicle;

(iv) the colour or colours in which the motor vehicle is to be painted;

(v) any matter, not specified in this Act, which shall be borne in mind by the appropriate authority in granting a national permit.

*Explanation.*—In this sub-section “authorisation fee” means the annual fee, not exceeding seven hundred rupees, which may be charged by the appropriate authority of a State to enable a motor vehicle, covered by the national permit, to be used in other States.’

3. In section 133 of the principal Act,—

(a) in sub-section (3), the words “by the Central Government or”, the words “Parliament or”, in both the places where they occur, and the words “as the case may be,” shall be omitted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

Amend-  
ment of  
section  
133.

14 of 1975.

4. (1) The Motor Vehicles (Amendment) Ordinance, 1975 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Repeal  
and  
saving.

## STATEMENT OF OBJECTS AND REASONS

In order to remove the constraints on the movement of goods by road, it was announced by Government that a scheme of national permits for road transport would be introduced. Since the Central Government was anxious to implement the scheme as early as possible, an Ordinance to amend the Motor Vehicles Act, 1939 was promulgated on 26th September, 1975 to facilitate its implementation.

2. The Bill seeks to replace the said Ordinance.

NEW DELHI;

G. S. DHILLON.

*The 12th December, 1975.*

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to amend section 63 of the Motor Vehicles Act, 1939 which provides for the use of permit outside the region to which it is granted. New sub-section (15) of section 63 empowers the Central Government to make rules for carrying out the provisions of new sub-section (11) of that section. The matters in respect of which rules may be made *inter alia* relate to the authorisation fee payable for issue of a national permit, the fixation of the laden weight of the motor vehicle covered by such a permit, the distinguishing particulars or marks to be carried or exhibited in or on the vehicle, the colour in which the vehicle is to be painted.

2. Matters in respect of which power is conferred on the Central Government to make rules relate to matters of detail and it is hardly possible to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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## II

## BILL NO. VI OF 1976

*A Bill further to amend the Indian Railways Act, 1890*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short  
title  
and com-  
mence-  
ment.

1. (1) This Act may be called the Indian Railways (Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 25th day of September, 1975.

Amend-  
ment of  
Act 9 of  
1890.

2. In the Indian Railways Act, 1890, after section 56A, the following sections shall be inserted, namely:—

Special  
provisions  
as to  
goods  
booked  
to noti-  
fied sta-  
tions.

‘56B. (1) In this section and in sections 56C and 56D, unless the context otherwise requires,—

(a) “essential commodity” means essential commodity as defined in clause (a) of section 2 of the Essential Commodities Act, 1955;

10 of 1955.

(b) “State Government”, in relation to a notified station, means the Government of the State in which such station is situated or where such station is situated in a Union territory, the Administrator of that Union territory appointed under article 239 of the Constitution;

(c) "notified station" means a station declared to be a notified station under sub-section (2);

(d) "prescribed" means prescribed by rules made by the Central Government under section 56E;

(e) "termination of transit" means termination of transit determined in accordance with the provisions of clause (a) of sub-section (5) of section 77.

(2) The Central Government may, if satisfied that it is necessary that goods booked by trains intended solely for the carriage of goods to any railway station should be removed without delay from such railway station, declare, by notification in the Official Gazette, such railway station to be a notified station for such period as may be specified in the notification:

Provided that before declaring any railway station to be a notified station under this sub-section, the Central Government shall have regard to all or any of the following factors, namely:—

(a) the volume of traffic and the storage space available at such railway station;

(b) the nature and quantities of goods generally booked to such railway station;

(c) the scope for causing scarcity of such goods by not removing them for long periods from such railway station and the hardship which such scarcity may cause to the community;

(d) the number of wagons likely to be held up at such railway station if goods are not removed therefrom quickly and the need for quick movement and availability of such wagons;

(e) such other factors (being factors relevant from the point of view of the interest of the general public) as may be prescribed:

Provided further that the period specified in any notification issued under this sub-section in respect of any railway station shall not exceed six months in the first instance but such period may, by a like notification, be extended from time to time by a period not exceeding six months on each occasion.

(3) If any person delivering to a railway administration any goods to be carried to a notified station makes an application in such form and manner as may be prescribed and specifies therein the address of the person to whom intimation of the arrival of the goods at the notified station shall be given and pays the postage fee required for giving such intimation, the railway administration shall, as soon as may be after the arrival of the goods at the notified station, send such intimation by registered post.

(4) There shall be exhibited at a conspicuous place in each notified station a statement in the prescribed form setting out the description of the goods which by reason of the fact that they have not been removed from the station within a period of seven days from

the termination of transit thereof are liable to be sold, in accordance with the provisions of sub-section (1) of section 56C, by public auction and the dates on which they would be so sold:

Provided that different statements may be so exhibited in respect of goods proposed to be sold on different dates.

(5) If the goods specified in any statement prepared under sub-section (4) include essential commodities, the officer preparing the statement shall, as soon as may be after the preparation of such statement, forward a copy thereof to—

(a) the representative of the Central Government, nominated by that Government in this behalf;

(b) the representative of the State Government, nominated by that Government in this behalf; and

(c) the district magistrate within the local limits of whose jurisdiction the railway station is situated.

Disposal  
of un-  
remov-  
ed goods  
at  
notified  
stations.

56C. (1) If any goods booked for carriage by railway to any notified station by a train intended solely for the carriage of goods are not removed from such station by a person entitled to do so within a period of seven days after the termination of transit thereof at such station, the railway administration may, subject to the provisions of sub-section (2), sell such goods by public auction and apart from exhibiting in accordance with the provisions of sub-section (4) of section 56B a statement containing a description of such goods, it shall not be necessary to give any notice of such public auction, but the dates on which such auction may be held under this sub-section may be notified in one or more local newspapers, or where there are no such newspapers, in such manner as may be prescribed:

Provided that if at any time before the sale of such goods under this sub-section the person entitled thereto pays the rates or charges and the expenses due in respect thereof to the railway administration, he shall be allowed to remove such goods.

(2) If any essential commodities which may be sold by public auction under sub-section (1) at a notified station are required by the Central Government or the State Government for its own use or if the Central Government or such State Government considers that it is necessary for securing the availability of all or any such essential commodities at fair prices so to do, it may, by order in writing, direct the officer in charge of such auction to transfer such goods to it or to such agency, co-operative society or other person (being an agency, co-operative society or other person subject to the control of the Government) engaged in the business of selling such essential commodities as may be specified in the direction.

(3) Every direction issued under sub-section (2) in respect of any essential commodity shall be binding on the officer to whom it is issued and the railway administration and it shall be a sufficient defence against any claim by the person entitled to the delivery



thereof that such essential commodities have been transferred in compliance with such direction:

Provided that—

(a) such direction shall not be binding on such person or the railway administration—

(i) if it has not been received by such officer sufficiently in time to enable him to prevent the sale of the essential commodities to which it relates; or

(ii) if before the time appointed for such sale the person entitled to such goods pays the rates or charges and the expenses due in respect thereof and claims that he be allowed to remove the goods; or

(iii) if the price payable for such goods (as estimated by the Central Government or, as the case may be, the State Government) has not been credited to the railway administration in the prescribed manner and the railway administration is not indemnified against any additional amount which it may become liable to pay towards price by reason of the price not having been computed in accordance with the provisions of sub-section (4);

(b) where directions are issued in respect of the same goods both by the Central Government and the State Government, the directions received earlier shall prevail.

(4) The price payable for any essential commodity transferred in compliance with a direction issued under sub-section (2) shall be the price calculated in accordance with the provisions of sub-section (3) of section 3 of the Essential Commodities Act, 1955:

10 of 1955.

Provided that—

(a) in the case of any essential commodity being a food-stuff in respect whereof a notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of clauses (iii) and (iv) of that sub-section;

10 of 1955.

(b) in the case of an essential commodity being any grade or variety of foodgrains, edible oil-seeds or edible oils in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of sub-section (3B) of that section;

10 of 1955.

(c) in the case of an essential commodity being any kind of sugar in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 is in force in the locality in which the notified station is situated, the price payable shall, if such sugar has been booked by the producer to himself, be calculated in accordance with the provisions of sub-section (3C) of that section.

10 of 1955.

*Explanation.*—For the purposes of this clause, the expressions “producer” and “sugar” shall have the meanings assigned to those expressions in the *Explanation* to sub-section (3C) of section 3, and clause (e) of section 2, of the Essential Commodities Act, 1955 respectively. 10 of 1955.

Price to be paid to person entitled after deducting dues.

56D. (1) Out of the proceeds of any sale of goods under sub-section (1) of section 56C or the price payable therefor under sub-section (4) of that section, the railway administration may retain a sum equal to the rates or charges due in respect of the goods and the expenses incurred in respect of the goods and the auction thereof and render the surplus, if any, to the person entitled thereto.

(2) Notwithstanding anything contained in sub-section (1), the railway administration may recover by suit any such rate or charge or expenses referred to therein or balance thereof.

(3) Any goods sold under sub-section (1) of section 56C or transferred in compliance with directions issued under sub-section (2) of that section shall vest in the buyer or the transferee free from all encumbrances but subject to a priority being given for the sum which may be retained by a railway administration under sub-section (1), the person in whose favour such encumbrance subsists may have a claim in respect of such encumbrance against the surplus, if any, referred to in that sub-section.

Power to make rules.

56E. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of sections 56B, 56C and 56D.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the factors to which the Central Government shall have regard under clause (e) of the first proviso to sub-section (2) of section 56B;

(b) the form and manner in which an application may be made under sub-section (3) of section 56B;

(c) the form in which a statement required to be exhibited under sub-section (4) of section 56B shall be prepared;

(d) the manner in which the dates of public auctions may be notified under sub-section (1) of section 56C; and

(e) the manner of crediting to the Railway Administration the price of goods referred to in sub-clause (iii) of clause (a) of the proviso to sub-section (3) of section 56C.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should

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not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.'

10 of 1975.

3. (1) The Indian Railways (Amendment) Ordinance, 1975 is hereby repealed.

Repeal  
and  
saving.

9 of 1890.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Railways Act, 1890, as amended by the said Ordinance, shall be deemed to have been done or taken under that Act as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

Under sections 55 and 56 of the Indian Railways Act, 1890, a Railway Administration can dispose of unclaimed non-perishable goods by public auction only after giving the owner of the goods a notice and allowing a reasonable time to elapse. In addition, the Administration has also to give fifteen days' notice of the auction in the local newspapers. The delay involved in this procedure has been taken undue advantage of by traders, from time to time, with a view mainly to creating artificial scarcity of essential goods. Apart from the resultant hardship to the community, such delay in taking delivery of goods booked by Railways has other consequences also. It leads to heavy congestion in stations having a large volume of traffic and inadequate storage space. Further, it results in a number of wagons being held up at such stations and other wagons carrying goods being held up *en route*.

2. In 1972, the Indian Railways Act was amended, *inter alia*, to reduce the period of liability of a Railway Administration as bailee for the loss, destruction, damage, deterioration or non-delivery of goods carried by Railways from thirty days after the termination of the transit of the goods to seven days. Experience has shown that this has not been helpful in dealing with the problem of delays in clearance of goods booked by Railways.

3. During the Emergency, it became urgently necessary, *inter alia*, to avoid scope for creating any artificial scarcity of essential commodities and to ensure speedy clearance of goods from stations. Hence the President promulgated on the 25th September, 1975 the Indian Railways (Amendment) Ordinance, 1975. The Ordinance amended the Indian Railways Act, 1890 to provide a special procedure for speedy disposal of goods which are not cleared within seven days after the termination of their transit. It also provided that such disposal should be by transfer to the Central Government or to a State Government or to an agency nominated by such Government in the case of essential commodities required to be made available at fair prices and by public auction in all other cases. The Ordinance also provided that the special procedure would be applicable only at such stations where there is need for quick clearance of goods having regard to the volume of traffic and storage space available and other relevant factors.

4. The Bill seeks to replace the Ordinance.

NEW DELHI;

KAMLAPATI TRIPATHI.

The 9th December, 1975

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to insert four new sections—sections 56B, 56C, 56D and 56E—in the Indian Railways Act, 1890. New section 56E seeks to empower the Central Government to make rules for the purpose of giving effect to the provisions of the other new sections. The matters in respect of which such rules may be made relate to the additional factors which have to be taken into account in declaring a station to be a notified station under new section 56B(2), the form and manner in which applications may be made under new section 56B(3) by persons delivering goods to be carried to notified stations, the form of statement of goods required to be exhibited under new section 56B(4), the manner in which the dates of public auction may be notified under new section 56C(1), the manner of payment of price of essential commodities in respect of which the Central Government or a State Government has issued directions under new section 56C(3) and other matters of detail or form.

2. It is made clear in new section 56B(2) that only factors relevant from the point of view of the interest of the general public may be prescribed as additional factors which have to be taken into account in declaring a station to be a notified station. Further, as all the factors which can be visualised now have been expressly spelt out in this provision, the power to prescribe additional factors is intended only to cover factors which it is not possible to envisage at present. All other matters in respect of which rules may be made under new section 56E are essentially matters of procedure or detail. The delegation of legislative power is, therefore, of a normal character.

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## III

## BILL NO. VII OF 1976

*A Bill to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

**Short  
title, ex-  
tent and  
com-  
mence-  
ment.**

1. (1) This Act may be called the Bonded Labour System (Abolition) Act, 1976.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 25th day of October, 1975.

2. In this Act, unless the context otherwise requires,—

Defini-  
tions.

(a) "advance" means an advance, whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor);

(b) "agreement" means an agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor, and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

*Explanation.*—The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social custom, in relation to the following forms of forced labour, namely:—

Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru-Galu, Hali, Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti;

(c) "ascendant" or "descendant", in relation to a person belonging to a matriarchal society, means the person who corresponds to such expression in accordance with the law of succession in force in such society;

(d) "bonded debt" means an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system;

(e) "bonded labour" means any labour or service rendered under the bonded labour system;

(f) "bonded labourer" means a labourer who incurs, or has, or is presumed to have, incurred, a bonded debt;

(g) "bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,—

(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of an obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community,  
he would—

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or

(2) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him,

and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

(h) "family", in relation to a person, includes the ascendant and descendant of such person;

(i) "nominal wages", in relation to any labour, means a wage which is less than,—

(a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force, and

(b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality;

(j) "prescribed" means prescribed by rules made under this Act.

Act  
to  
have  
over-  
riding  
effect.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

## CHAPTER II

### ABOLITION OF BONDED LABOUR SYSTEM

Abolition  
of  
bonded  
labour  
system.

4. (1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour.



(2) After the commencement of this Act, no person shall—

(a) make any advance under, or in pursuance of, the bonded labour system, or

(b) compel any person to render any bonded labour or other form of forced labour.

5. On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act), by virtue of which any person, or any member of the family or dependant of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

Agreement, custom, etc., to be void.

### CHAPTER III

#### EXTINGUISHMENT OF LIABILITY TO REPAY BONDED DEBT

6. (1) On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall be deemed to have been extinguished.

Liability to repay bonded debt to stand extinguished.

(2) After the commencement of this Act, no suit or other proceeding shall lie in any civil court or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.

(4) Every attachment made before the commencement of this Act, for the recovery of any bonded debt, shall, on such commencement, stand vacated; and, where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer.

(5) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family or other dependant was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after such commencement, to the possession of the person from whom it was seized.

(6) If restoration of the possession of any property referred to in sub-section (4) or sub-section (5) is not made within thirty days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order.

(7) An order made by any prescribed authority, under sub-section (6), shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared that, where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act:

Provided that the bonded labourer, or an agent authorised by him in this behalf, may, at any time within five years from such commencement, apply to have the sale set aside on his depositing in court, for payment to the decree-holder, the amount specified in the proclamation of sale, for the recovery of which the sale was ordered, less any amount, as well as mesne profits, which may, since the date of such proclamation of sale, have been received by the decree-holder.

(9) Where any suit or proceeding, for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement, stand dismissed.

(10) On the commencement of this Act, every bonded labourer who has been detained in civil prison, whether before or after judgment, shall be released from detention forthwith.

Property  
of bonded  
labourer  
to be  
freed  
from  
mortgage,  
etc.

7. (1) All property vested in a bonded labourer which was, immediately before the commencement of this Act under any mortgage, charge, lien or other incumbrances in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other incumbrances, and where any such property was, immediately before the commencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or incumbrance, such property shall (except where it was subject to any other charge), on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property, referred to in sub-section (1), to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or incumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

Freed  
bonded  
labourer  
not to be  
evicted  
from  
home-  
stead,  
etc.

8. (1) No person who has been freed and discharged under this Act from any obligation to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labour.

(2) If, after the commencement of this Act, any such person is evicted by the creditor from any homestead or other residential premises, referred to in sub-section (1), the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is

situated shall, as early as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

9. (1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.

Creditor not to accept payment against extinguished debt.

(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years and also with fine.

(3) The court, convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted in contravention of the provisions of sub-section (1), within such period as may be specified in the order for being refunded to the bonded labourer.

## CHAPTER IV

### IMPLEMENTING AUTHORITIES

10. The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

Authorities who may be specified for implementing the provisions of this Act.

11. The District Magistrate authorised by the State Government under section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

Duty of District Magistrate and other officers to ensure credit.

12. It shall be the duty of every District Magistrate and every officer specified by him under section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

Duty of District Magistrate and officers authorised by him.

## CHAPTER V

### VIGILANCE COMMITTEES

13. (1) Every State Government shall, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

Vigilance Committees.

(2) Each Vigilance Committee, constituted for a district, shall consist of the following members, namely:—

(a) the District Magistrate, or a person nominated by him, who shall be the Chairman:

(b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the district, to be nominated by the District Magistrate;

(c) two social workers, resident in the district, to be nominated by the District Magistrate;

(d) not more than three persons to represent the official or non-official agencies in the district connected with rural development, to be nominated by the State Government;

(e) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely:—

(a) the Sub-Divisional Magistrate, or a person nominated by him, who shall be the Chairman;

(b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(c) two social workers, resident in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(d) not more than three persons to represent the official or non-official agencies in the Sub-Division connected with rural development to be nominated by the District Magistrate;

(e) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(f) one officer specified under section 10 and functioning in the Sub-Division.

(4) Each Vigilance Committee shall regulate its own procedure and secretarial assistance, as may be necessary, shall be provided by—

(a) the District Magistrate, in the case of a Vigilance Committee constituted for the district;

(b) the Sub-Divisional Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.

(5) No proceeding of a Vigilance Committee shall be invalid merely by reason of any defect in the constitution, or in the proceedings, of the Vigilance Committee.

Func-  
tions of  
Vigilance  
Committ-  
tees.

14. (1) The functions of each Vigilance Committee shall be,—

(a) to advise the District Magistrate or any officer authorised by him as to the efforts made, and action taken, to ensure that the provisions of this Act or of any rule made thereunder are properly implemented;

(b) to provide for the economic and social rehabilitation of the freed bonded labourers;

(c) to co-ordinate the functions of rural banks and co-operative societies with a view to canalising adequate credit to the freed bonded labourer;

(d) to keep an eye on the number of offences of which cognizance has been taken under this Act;

(e) to make a survey as to whether there is any offence of which cognizance ought to be taken under this Act;

(f) to defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

(2) A Vigilance Committee may authorise one of its members to defend a suit against a freed bonded labourer and the member so authorised shall be deemed, for the purpose of such suit, to be the authorised agent of the freed bonded labourer.

15. Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor. Burden of proof.

## CHAPTER VI

### OFFENCES AND PROCEDURE FOR TRIAL

16. Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees. Punishment for enforcement of bonded labour.

17. Whoever advances, after the commencement of this Act, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees. Punishment for advancement of bonded debt.

18. Whoever enforces, after the commencement of this Act, any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependant of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him. Punishment for extracting bonded labour under the bonded labour system.

19. Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him. Punishment for omission or failure to restore possession of property to bonded labourers.

20. Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted. Abetment to be an offence.

*Explanation.*—For the purpose of this Act, “abetment” has the meaning assigned to it in the Indian Penal Code.



Offences  
to be  
tried by  
Executive  
Magis-  
trates,

21. (1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973, to be a Judicial Magistrate of the first class, or of the second class, as the case may be. 2 of 1974.

(2) An offence under this Act may be tried summarily by a Magistrate.

Cogniz-  
ance of  
offences

22. Every offence under this Act shall be cognizable and bailable.

Offences  
by com-  
panies.

23. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

## CHAPTER VII

### MISCELLANEOUS

Protec-  
tion of  
action  
taken in  
good  
faith.

24. No suit, prosecution or other legal proceeding shall lie against any State Government or any officer of the State Government or any member of the Vigilance Committee for anything which is in good faith done or intended to be done under this Act.

Jurisdic-  
tion of  
civil  
courts  
barred.

25. No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

Power to  
make  
rules.

26. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the authority to which application for the restoration of possession of property referred to in sub-section (4), or sub-section (5), of section 6 is to be submitted in pursuance of sub-section (6) of that section;

(b) the time within which application for restoration of possession of property is to be made, under sub-section (6) of section 6, to the prescribed authority;

(c) steps to be taken by Vigilance Committees under clause (a) of sub-section (1) of section 14, to ensure the implementation of the provisions of this Act or of any rule made thereunder;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

17 of 1975.

27. (1) The Bonded Labour System (Abolition) Ordinance, 1975 is hereby repealed.

Repeal  
and  
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance (including any notification published, direction or nomination made, power conferred, duty imposed or officer specified) shall be deemed to have been done or taken under the corresponding provisions of this Act.

## STATEMENT OF OBJECTS AND REASONS

There still exists in different parts of the country a system of usury under which the debtor or his descendants or dependants have to work for the creditor without reasonable wages or with no wages in order to extinguish the debt. At times, several generations work under bondage for the repayment of a paltry sum which had been taken by some remote ancestor. The interest rates are exorbitant and such bondage cannot be interpreted as the result of any legitimate contract or agreement. The system implies the infringement of the basic human rights and destruction of the dignity of human labour.

2. Article 23(1) of the Constitution prohibits "begar", and other similar forms of forced labour and further provides that any contravention of the said prohibition shall be an offence punishable in accordance with law. Article 35(a)(ii) of the Constitution not only confers the power on Parliament to provide for punishment for the contravention of the said provisions of article 23(1) but expressly takes away the power of the State Legislature to make any legislation with regard to the said matter. Accordingly, the Bonded Labour System (Abolition) Ordinance, 1975, was promulgated by the President on the 24th October, 1975. By the said Ordinance, the bonded labour system was abolished and the bonded labourers were freed and discharged from any obligation to render any bonded labour and their bonded debts were also extinguished. The Ordinance further affords protection to the freed bonded labourers from eviction from their homestead. Contraventions of the provisions of the Ordinance have been made offences punishable in accordance with law. Provisions for the follow-up measures and economic rehabilitation of the freed bonded labourers have also been made in the Ordinance.

3. The Bill seeks to replace the said Ordinance.

NEW DELHI;  
*The 17th December, 1975.*

K. V. RAGHUNATHA REDDY.



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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 26 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The matters in respect of which rules may be made relate, among others, to the authority to which application for the restoration of possession of property referred to in sub-clause (4) or sub-clause (5) of clause 6 is to be submitted, the time within which application for restoration of possession of property is to be made to the prescribed authority and the steps to be taken by vigilance committees to ensure the implementation of the provisions of the Bill.

2. The matters in respect of which rules may be made are of administrative detail and procedure and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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## IV

## BILL No. VIII OF 1976

*A Bill to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

Short  
title,  
extent  
and  
commen-  
cement.

1. (1) This Act may be called the Equal Remuneration Act, 1976.

(2) It extends to the whole of India.

(3) It shall come into force on such date, not being later than three years from the passing of this Act, as the Central Government may, by notification, appoint and different dates may be appointed for different establishments or employments.

2. In this Act, unless the context otherwise requires,—

Defini-  
tions.

(a) "appropriate Government" means,—

(i) in relation to any employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a banking company, a mine, oilfield or major port or any corporation established by or under a Central Act, the Central Government, and

(ii) in relation to any other employment, the State Government;

(b) "commencement of this Act" means, in relation to an establishment or employment, the date on which this Act comes into force in respect of that establishment or employment;

39 of 1972.

(c) "employer" has the meaning assigned to it in clause (f) of section 2 of the Payment of Gratuity Act, 1972;

(d) "man" and "woman" mean male and female human beings, respectively, of any age;

(e) "notification" means a notification published in the Official Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "remuneration" means the basic wage or salary, and any additional emoluments whatsoever payable, either in cash or in kind, to a person employed in respect of employment or work done in such employment, if the terms of the contract of employment, express or implied, were fulfilled;

(h) "same work or work of a similar nature" means work in respect of which the skill, effort and responsibility required are the same, when performed under similar working conditions, by a man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of a woman are not of practical importance in relation to the terms and conditions of employment;

(i) "worker" means a worker in any establishment or employment in respect of which this Act has come into force;

14 of 1947.

(j) words and expressions used in this Act and not defined but defined in the Industrial Disputes Act, 1947, shall have the meanings respectively assigned to them in that Act.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act, or in any instrument having effect under any law for the time being in force.

Act to  
have  
over-  
riding  
effect.

## CHAPTER II

PAYMENT OF REMUNERATION AT EQUAL RATES TO MEN AND WOMEN WORKERS  
AND OTHER MATTERS

Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature.

4. (1) No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.

(2) No employer shall, for the purpose of complying with the provisions of sub-section (1), reduce the rate of remuneration of any worker.

(3) Where, in an establishment or employment, the rates of remuneration payable before the commencement of this Act for men and women workers for the same work or work of a similar nature are different only on the ground of sex, then the higher (in cases where there are only two rates), or, as the case may be, the highest (in cases where there are more than two rates), of such rates shall be the rate at which remuneration shall be payable, on and from such commencement, to such men and women workers:

Provided that nothing in this sub-section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her with reference to the service rendered by him or her before the commencement of this Act.

No discrimination to be made while recruiting men and women workers.

5. On and from the commencement of this Act, no employer shall, while making recruitment for the same work or work of a similar nature, make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force:

Provided that the provisions of this section shall not affect any priority or reservation for Scheduled Castes or Scheduled Tribes, ex-servicemen, retrenched employees or any other class or category of persons in the matter of recruitment to the posts in an establishment or employment.

Advisory Committee.

6. (1) For the purpose of providing increasing employment opportunities for women, the appropriate Government shall constitute one or more Advisory Committees to advise it with regard to the extent to which women may be employed in such establishments or employments as the Central Government may, by notification, specify in this behalf.

(2) Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women.

(3) In tendering its advice, the Advisory Committee shall have regard to the number of women employed in the concerned establishment or employment, the nature of work, hours of work, suitability of women for employment, as the case may be, the need for providing increasing employment opportunities for women, including part-time employment, and such other relevant factors as the Committee may think fit.

(4) The Advisory Committee shall regulate its own procedure.

(5) The appropriate Government may, after considering the advice tendered to it by the Advisory Committee and after giving to the persons concerned in the establishment or employment an opportunity to make representations, issue such directions in respect of employment of women workers, as the appropriate Government may think fit.

7. (1) The appropriate Government may, by notification, appoint such officers, not below the rank of a Labour Officer, as it thinks fit to be the authorities for the purpose of hearing and deciding—

(a) Complaints with regard to the contravention of any provision of this Act;

(b) claims arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature;

and may, by the same or subsequent notification, define the local limits within which each such authority shall exercise its jurisdiction.

Power of appropriate Government to appoint authorities for hearing and deciding claims and complaints.

(2) Every complaint or claim referred to in sub-section (1) shall be made in such manner as may be prescribed.

(3) If any question arises as to whether two or more works are of the same nature or of a similar nature, it shall be decided by the authority appointed under sub-section (1).

(4) Where a complaint or claim is made to the authority appointed under sub-section (1), it may, after giving the applicant and the employer an opportunity of being heard, and after such inquiry as it may consider necessary, direct,—

(i) in the case of a claim arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature, that payment be made to the worker of the amount by which the wages payable to him exceed the amount actually paid;

(ii) in the case of complaint, that adequate steps be taken by the employer so as to ensure that there is no contravention of any provision of this Act.

5 of 1908.

(5) Every authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

(6) Any employer or worker aggrieved by any order made by an authority appointed under sub-section (1), on a complaint or claim may, within thirty days from the date of the order, prefer an appeal to such authority as the appropriate Government may, by notification, specify in this behalf, and that authority may, after hearing the appeal, confirm, modify or reverse the order appealed against and no further appeal shall lie against the order made by such authority.

(7) The authority referred to in sub-section (6) may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the

appeal within the period specified in sub-section (6), allow the appeal to be preferred within a further period of thirty days but not thereafter.

(8) The provisions of sub-section (1) of section 33C of the Industrial Disputes Act, 1947, shall apply for the recovery of monies due from an employer arising out of the decision of an authority appointed under this section.

14 of 1947.

### CHAPTER III

#### MISCELLANEOUS

Duty of  
employers  
to  
maintain  
registers.

8. On and from the commencement of this Act, every employer shall maintain such registers and other documents in relation to the workers employed by him as may be prescribed.

Inspec-  
tors.

9. (1) The appropriate Government may, by notification, appoint such persons as it may think fit to be Inspectors for the purpose of making an investigation as to whether the provisions of this Act, or the rules made thereunder, are being complied with by employers, and may define the local limits within which an Inspector may make such investigation.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

(3) An Inspector may, at any place within the local limits of his jurisdiction,—

(a) enter, at any reasonable time, with such assistance as he thinks fit, any building, factory, premises or vessel;

(b) require any employer to produce any register, muster-roll or other documents relating to the employment of workers, and examine such documents;

(c) take, on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Act are being, or have been, complied with;

(d) examine the employer, his agent or servant or any other person found in charge of the establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be, or to have been a worker in the establishment;

(e) make copies, or take extracts from, any register or other document maintained in relation to the establishment under this Act.

(4) Any person required by an Inspector to produce any register or other document or to give any information shall comply with such requisition.

Penal-  
ties.

10. (1) If after the commencement of this Act, any employer, being required by or under the Act, so to do—

(a) omits or fails to maintain any register or other document in relation to workers employed by him, or

(b) omits or fails to produce any register, muster-roll or other document relating to the employment of workers, or

(c) omits or refuses to give any evidence or prevents his agent, servant, or any other person in charge of the establishment, or any worker, from giving evidence, or

(d) omits or refuses to give any information,

he shall be punishable with fine which may extend to one thousand rupees.

(2) If, after the commencement of this Act, any employer—

(a) makes any recruitment in contravention of the provisions of this Act, or

(b) makes any payment of remuneration at unequal rates to men and women workers, for the same work or work of a similar nature, or

(c) makes any discrimination between men and women workers in contravention of the provisions of this Act, or

(d) omits or fails to carry out any direction made by the appropriate Government under sub-section (5) of section 6,

he shall be punishable with fine which may extend to five thousand rupees.

(3) If any person being required so to do, omits or refuses to produce to an Inspector any register or other document or to give any information, he shall be punishable with fine which may extend to five hundred rupees.

11. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences  
by  
compa-  
nies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

12. (1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Cogni-  
zance  
and  
trial of  
offences.



(2) No court shall take cognizance of an offence punishable under this Act except upon a complaint made with the sanction of the appropriate Government or an officer authorised by it in this behalf.

(3) No court shall take cognizance of an offence punishable under this Act unless complaint thereof is made within three months from the date on which sanction is granted under this section.

Power to  
make  
rules.

13. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which complaint or claim referred to in subsection (1) of section 7 shall be made;

(b) registers and other documents which an employer is required under section 8 to maintain in relation to the workers employed by him;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of  
Central  
Govern-  
ment  
to give  
directions.  
Act  
not  
to apply  
in certain  
special  
cases.

14. The Central Government may give directions to a State Government as to the carrying into execution of this Act in the State.

15. In so far as—

(a) the terms and conditions of a woman's employment are, in any respect, affected by compliance with the law regulating the employment of women, or

(b) any special treatment is accorded to women in connection with the birth, or expected birth, of a child,

then to that extent the requirement of equal treatment for men and women as mentioned in this Act shall not apply (but without prejudice to its operation as regards other matters), nor shall that requirement extend to requiring equal treatment as regards terms and conditions relating to retirement, marriage or death or to any provision made in connection with retirement, marriage or death.



16. Where the appropriate Government is, on a consideration of all the circumstances of the case, satisfied that the differences in regard to the remuneration, or a particular species of remuneration, of men and women workers in any establishment or employment is based on a factor other than sex, it may, by notification, make a declaration to that effect, and any act of the employer attributable to such a difference shall not be deemed to be a contravention of any provision of this Act.

Power to  
make  
decla-  
ration.

17. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notification, make any order, not inconsistent with the provisions of this Act, which appears to it to be necessary for the purpose of removing the difficulty:

Power to  
remove  
difficul-  
ties.

Provided that every such order shall, as soon as may be after it is made, be laid before each House of Parliament.

112 of 1975.

18. (1) The Equal Remuneration Ordinance, 1975 is hereby repealed.

Repeal  
and  
saving

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed (including any notification, nomination, appointment, order or direction made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force when such thing was done or action was taken.

## STATEMENT OF OBJECTS AND REASONS

Article 39 of the Constitution envisages that the State shall direct its policy, among other things, towards securing that there is equal pay for equal work for both men and women. To give effect to this constitutional provision, the President promulgated on the 26th September, 1975, the Equal Remuneration Ordinance, 1975 so that the provisions of article 39 of the Constitution may be implemented in the year which is being celebrated as the International Women's Year. The Ordinance provides for payment of equal remuneration to men and women workers for the same work or work of a similar nature and for the prevention of discrimination on grounds of sex.

2. The Ordinance also ensures that there will be no discrimination against recruitment of women and provides for the setting up of Advisory Committees to promote employment opportunities for women.

3. This Bill seeks to replace the Ordinance.

NEW DELHI;

*The 15th December, 1975.*

K. V. RAGHUNATHA REDDY.

### FINANCIAL MEMORANDUM

Clause 6 of the Bill requires the Central Government to constitute one or more Advisory Committees. The Bill, if enacted, will involve an expenditure on the travelling and daily allowances of the members of the Central Advisory Committee proposed to be constituted by the Central Government. Such expenditure is likely to be of the order of rupees fifty thousand per annum. The Bill, if enacted, will not involve any non-recurring expenditure.

It is proposed to entrust the administration of the provisions of the Bill, in employments for which the Central Government is the appropriate Government to the Office of the Chief Labour Commissioner (Central) and to appoint the existing Assistant Labour Commissioners, the Regional Labour Commissioners and the Labour Enforcement Officers as Authorities, Appellate Authorities and Inspectors, respectively, under the Bill. Taking into account the additional work that may devolve on the organisation of the Chief Labour Commissioner (Central), if the Bill is enacted, it may be necessary to appoint certain additional staff involving total non-recurring expenditure amounting to rupees twenty thousand and a recurring expenditure amounting to rupees eighty thousand per annum.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. The matters in respect of which rules may be made relate, among others, to the manner in which complaint or claim referred to in sub-clause (1) of clause 7 shall be made and the registers and other documents which an employer is required under clause 8 to maintain in relation to the workers employed by him.

2. The matters in respect of which rules may be made are of administrative detail and procedure and it is not practicable to provide for them in the Bill itself. Delegation of the legislative power is, therefore, of a normal character.

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B. N. BANERJEE,  
*Secretary-General.*